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EXAMINER

OCAMPO, MARIANNE S

ART UNIT PAPER NUMBER

1723

DATE MAILED: 01/07/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/056,277

Applicant(s)

LAMB, DOUGLAS R.

Examiner

Marianne S. Ocampo

Art Unit

1723

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 September 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,4-10,12 and 13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,4-10,12 and 13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action, or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachments(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s) _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Objections

1. Claim 5 is objected to because of the following informalities: the word "though" in line 2, after the word "passing" should be changed to "through". Appropriate correction is required.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 4 – 6 and 8 - 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Hodgkins et al.(US 5,807,481).

4. With regards to claim 1, Hodgkins et al. disclose a filtration system comprising:

- a filter assembly wherein the assembly comprises:

- a filter component (70) and
- a plurality of baffles (defined by ribs 76) attached to (i.e. connected to upon assembly) with one side of the filter component (70) capable of reducing motion of fluid around and through the filter assembly and the baffles substantially traversing the length and width of the filter component at right angles to the filter component, as in figs. 1 – 2 & 5 and cols. 5 – 6.

5. Concerning claim 4, Hodgkins et al. have disclosed the limitations of claim 1 above. Hodgkins et al. further disclose the filter component (70) further comprising an o-ring (66) encircling the perimeter of the filter component (70), as in fig. 1 and col. 5.

6. With regards to claim 5, the limitation “said receptacle” in line 3, lacks proper antecedent basis. Claim 5 is also considered indefinite because it is unclear what size/dimensions is considered to meet the limitation “of sufficient size to accommodate a human finger or thumb”. Hodgkins et al. have disclosed the limitations of claim 1 above. Hodgkins et al. also disclose the filter component (70) further comprising at least one aperture (60) passing through the filter component (70) for providing a means by which a user could easily remove the filter assembly from a receptacle (12, 14) wherein the aperture having a size relatively larger than the openings of the filter component, which could be of sufficient size to accommodate a human finger or thumb, as in fig. 1.

7. Regarding claim 6, Hodgkins et al. have disclosed the limitations of claim 5 above. Hodgkins et al. also disclose the at least one aperture (60) being defined by a band (gasket 62) of material wherein the band of material (62) is separate from the material of the filter component (70), and also formed integrally (forming a unitary structure with) with the material of the filter component (70), as in fig. 1 and col. 5.

8. With respect to claim 8, Hodgkins et al. disclose a filtration system comprising:

- a receptacle (defined by base/cover members 12 & 14) comprising a closed bottom (14, 30) and an open top portion (defined by either the cover member 12 or simply the top open surface of the base 14),
 - a filter assembly wherein the assembly comprises:
 - a filter component (70) and,
 - an o-ring (66) encircling the perimeter of the filter component (70) for forming a seal with the receptacle (14), as in fig. 1 and col. 5, and
 - a plurality of baffles (defined by ribs 76) attached to (i.e. connected to upon assembly) with one side of the filter component (70) capable of reducing motion of fluid around and through the filter assembly and the baffles substantially traversing the length and width of the filter component at right angles to the filter component, as in figs. 1 – 3 & 5 and cols. 5 – 6.

9. Concerning claim 9, Hodgkins et al. have disclosed the limitations of claim 8 above. Hodgkins et al. also disclose the filter component (70) further comprising at least one aperture (60) passing through the filter component (70) for providing a means by which a user could easily remove the filter assembly from a receptacle (12, 14) wherein the aperture having a size relatively larger than the openings of the filter component, which could be of sufficient size to accommodate a human finger or thumb, as in fig. 1.

10. Regarding claim 10, Hodgkins et al. have disclosed the limitations of claim 9 above. Hodgkins et al. also disclose the at least one aperture (60) being defined by a band (gasket 62) of material wherein the band of material (62) is separate from the material of the filter component (70), and also formed integrally (forming a unitary structure with) with the material of the filter component (70), as in fig. 1 and col. 5.

Claim Rejections - 35 USC § 103

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. Claims 7 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hodgkins et al. in view of Fox (US 865,691).

13. Regarding claims 7 and 12, Hodgkins et al. have disclosed the limitations of claims 1 and 8, respectively above. Hodgkins et al. fail to disclose the top side of the filter component comprising cross bars having topmost edges which are tapered, thereby minimizing surface area of the filter component.

14. Fox teaches a filter component (l, in the lower end of h) in the form of circular grating plate, and the filter component comprises cross bars having topmost edges which are tapered, thereby minimizing surface area of the filter component, as in figs. 3 – 4 and page 1.

It is considered obvious to one of ordinary skill in the art at the time of the invention to modify the type of filtering element/filter component in the system of Hodgkins et al., by adding the embodiment taught by Fox, in order to provide an alternative design for the filter component, which has a cross-section which guides and can restrict fluid flow towards the bottom of the receptacle, thereby providing a filter element which can slow down the passage of fluid therethrough.

15. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hodgkins et al..

16. Regarding claim 13, Hodgkins et al. has disclosed the limitations of claim 8 above. Hodgkins et al. disclose the filter assembly and the receptacle being formed as a separable unit, as in fig. 1 and cols. 1 – 6. Although Hodgkins et al. do not teach the filter assembly and the receptacle being fabricated as a single integrated and inseparable unit, it is considered obvious to one of ordinary skill in the art at the time of the invention to provide or manufacture the system of Hodgkins et al., such that the filter assembly is permanently disposed or attached to the receptacle/housing members (base and cover, 12 & 14) thereof, in order to provide a filter system which does not require assembly of many parts, thus eliminating unnecessary costs for manufacture. The case law, *In re Larson* (340 F.2d 965, 968 144 USPQ 347, 349 (CCPA 1965)) has provided that a claim towards an invention in which it differs from that of a prior art by using a one piece construction instead of a structure disclosed in the prior art (i.e. several parts being secured together as a single unit, as in the case of the filtration system disclosed by Hodgkins et al.) would be merely a matter of obvious engineering choice.

Response to Arguments and Amendments

17. Applicant's arguments with respect to claims 1, 4 – 10 and 12 - 13 have been considered but are moot in view of the new grounds of rejection set forth above. Applicant's amendment necessitated the new grounds of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

Art Unit: 1723

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Conclusion

18. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marianne S. Ocampo whose telephone number is (571) 272-1144. The examiner can normally be reached on Mondays to Fridays from 8:30 A.M. to 4:30 P.M..

19. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wanda Walker can be reached on (571) 272-1151. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

M.S.O.


W. L. WALKER
SUPERVISORY PATENT EXAMINER
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